25209.10. The Legislature finds and declares all of the following:

(a) The long-term economic and environmental sustainability of agriculture is critical to the future of the state, and it is in the interest of the state to enact policies that enhance that sustainability.

(b) High levels of salt and selenium are present in many soils in the state as a result of both natural occurrences and irrigation practices that concentrate their presence in soils.

(c) The buildup of salt and selenium in agricultural soil is an unsustainable practice that degrades soil, harms an irreplaceable natural resource, reduces crop yields and farm income, and poses threats to wildlife.

(d) Salt and selenium buildup can degrade groundwater, especially in areas with perched groundwater aquifers.

(e) Off-farm drainage of irrigation water with high levels of salt and selenium degrades rivers and waterways, particularly the San Joaquin River and its tributaries. This environmental damage presents a clear and imminent danger that warrants immediate action to prevent or mitigate harm to public health and the environment.

(f) Discharge of agricultural drainage water to manmade drains and ponds has resulted in environmental damage, including damage to wildlife. Proposals to discharge agricultural drainage to natural water bodies, including the San Francisco Bay, are extremely expensive and pose threats to the environmental quality of those water bodies.

(g) Water supplies for agricultural irrigation have been reduced significantly in recent years, necessitating increased efforts to use water more efficiently.

(h) Although salt can be collected and managed as a commercial farm commodity, California currently imports salt from other countries.

(i) Integrated on-farm drainage management is a sustainable system of managing salt-laden farm drainage water. Integrated on-farm drainage management is designed to eliminate the need for off-farm drainage of irrigation water, prevent the on-farm movement of irrigation and drainage water to groundwater, restore and enhance the productive value of degraded farmland by removing salt and selenium from the soil, conserve water by reducing the demand for irrigation water, and create the potential to convert salt from a waste product and pollutant to a commercial farm commodity.

(j) Although integrated on-farm drainage management facilities are designed and operated expressly to prevent threats to groundwater and wildlife, these facilities currently may be classified as surface impoundments pursuant to the Toxic Pits Act of 1984, which discourages farmers from using them as an environmentally preferable means of managing agricultural drainage water.

(k) It is the policy of the state to conserve water and to minimize the environmental impacts of agricultural drainage. It is therefore in the interest of the state to encourage the voluntary implementation of sustainable farming and irrigation practices, including, but not limited to, integrated on-farm drainage management, as a means of improving environmental protection, conserving water, restoring degraded soils, and enhancing the economic productivity of farms.

25209.11. For purposes of this article, the following terms have the following meanings:

(a) "Agricultural drainage water" means surface drainage water or percolated irrigation water that is collected by subsurface drainage tiles placed beneath an agricultural field.

(b) "On-farm" means land within the boundaries of a property or geographically contiguous properties, owned or under the control of a single owner or operator or a publicly organized land-based agency, that is used for the commercial production of agricultural commodities and that contains an integrated on-farm drainage management system and a solar evaporator.

(c) "Integrated on-farm drainage management system" means a facility for the on-farm management of agricultural drainage water that does all of the following:

(1) Reduces levels of salt and selenium in soil by the application of irrigation water to agricultural fields.

(2) Collects agricultural drainage water from irrigated fields and sequentially reuses that water to irrigate successive crops until the volume of residual agricultural drainage water is substantially decreased and its salt content significantly increased.

(3) Discharges the residual agricultural drainage water to an on-farm solar evaporator for evaporation and appropriate salt management.

(4) Eliminates discharge of agricultural drainage water to evaporation ponds and outside the boundaries of the property or properties that produces the agricultural drainage water and that is served by the integrated on-farm drainage management system and the solar evaporator.

(d) "Publicly organized land-based agency" means a resource conservation district, as described in Division 9 (commencing with Section 9001) of the Public Resources **Code**, an irrigation district, as described in Division **11** (commencing with Section 20500) of the Water **Code**, any other district established pursuant to the Water **Code** whose operations may include managing agricultural irrigation or drainage, or a joint powers authority formed for the purpose of managing agricultural drainage or salt.

(e) "Regional board" means a California regional water quality control board.

(f) "Solar evaporator" means an on-farm area of land and its associated equipment that meets all of the following conditions:

(1) It is designed and operated to manage agricultural drainage water discharged from the integrated on-farm drainage management system.

(2) The area of the land that makes up the solar evaporator is equal to, or less than, 2 percent of the area of the land that is managed by the integrated on-farm drainage management system.

(3) Agricultural drainage water from the integrated on-farm drainage management system is discharged to the solar evaporator by timed sprinklers or other equipment that allows the discharge rate to be set and adjusted as necessary to avoid standing water within the solar evaporator or, if a water catchment basin is part of the solar evaporator, within that portion of the solar evaporator that is outside the basin.

(4) The combination of the rate of discharge of agricultural drainage water to the solar evaporator and subsurface tile drainage under the solar evaporator provides adequate assurance that

constituents in the agricultural drainage water will not migrate from the solar evaporator into the vadose zone or waters of the state in concentrations that pollute or threaten to pollute the waters of the state.

(g) "State board" means the State Water Resources Control Board.

(h) "Water catchment basin" means an area within the boundaries of a solar evaporator that is designated to receive and hold any water that might otherwise be standing water within the solar evaporator. The entire area of a water catchment basin shall be permanently and continuously covered with netting, or otherwise designed, constructed, and operated to prevent access by avian wildlife to standing water within the basin.

25209.12. The state board, in consultation, as necessary, with other appropriate state agencies, shall adopt or amend emergency regulations that establish minimum requirements for the design, construction, operation, and closure of a solar evaporator. The regulations shall include, but are not limited to, requirements to ensure all of the following:

(a) The operation of a solar evaporator does not result in a discharge of on-farm agricultural drainage water outside the boundaries of the area of land that makes up the solar evaporator.

(b) (1) The solar evaporator is designed, constructed, and operated so that, under reasonably forseeable operating conditions, the discharge of agricultural water to the solar evaporator does not result in standing water or drift of salt spray, mist, or particles outside the boundaries of the solar evaporator to the extent that drift constitutes a nuisance condition.

(2) Notwithstanding paragraph (1), a solar evaporator may be designed, constructed, and operated to accommodate standing water, if it includes a water catchment basin.

(3) The board may specify those conditions under which a solar evaporator is required to include a water catchment basin to prevent standing water that would otherwise occur within the solar evaporator.

(c) Avian wildlife is adequately protected. In adopting regulations pursuant to this subdivision, the state board shall do the following:

(1) Consider and, to the extent feasible, incorporate best management practices recommended or adopted by the United States Fish and Wildlife Service.

(2) Establish guidelines for the authorized inspection of a solar evaporator by the regional board pursuant to Section **25209.**15. The guidelines shall include technical advice developed in consultation with the Department of Fish and Game and the United States Fish and Wildlife Service that may be used by regional board personnel to identify observed conditions relating to the operation of a solar evaporator that indicate an unreasonable threat to avian wildlife.

(d) Constituents in agricultural drainage water discharged to the solar evaporator will not migrate from the solar evaporator into the vadose zone or the waters of the state in concentrations that pollute or threaten to pollute the waters of the state.

(e) Adequate groundwater monitoring and recordkeeping is performed to ensure compliance with this article.

(f) Salt isolated in a solar evaporator shall be managed in

accordance with all applicable laws and shall eventually be harvested and sold for commercial purposes, used for beneficial purposes, or stored or disposed in a facility authorized to accept that waste pursuant to this chapter or Division 30 (commencing with Section 40000) of the Public Resources **Code**.

25209.13. (a) A person who intends to operate a solar evaporator shall, before installing the solar evaporator, file a notice of intent with the regional board, using a form prepared by the regional board. The form shall require the person to provide all of the following:

(1) The location of the solar evaporator.

(2) The design of the solar evaporator and the equipment that will be used to operate it.

(3) The maximum anticipated rate at which agricultural drainage water will be discharged to the solar evaporator.

(4) The anticipated rate of accumulation of evaporite salt in the solar evaporator and the anticipated period of time before the salt needs to be removed to ensure the continued effective operation of the evaporator.

(5) Plans for operating the solar evaporator in compliance with this article, including a plan to collect and remove evaporite salt to ensure the continued effective operation of the evaporator.

(6) Groundwater monitoring data that are adequate to establish baseline data for use in comparing subsequent data submitted by the operator pursuant to this article.

(7) Weather data and a water balance analysis sufficient to assess the likelihood of standing water occurring within the solar evaporator.

(8) A brief description of any documents or reports required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources **Code**), with the appropriate document or report, if required, included as an attachment to the form.

(9) Any other information required or authorized by regulation.

(b) The regional board shall, within 30 calendar days after receiving the notice submitted pursuant to subdivision (a), review the notice of intent for its completeness, inspect, if necessary, the site where the proposed solar evaporator will be located, and notify the operator of whether the notice of intent is complete. If the regional board determines that the notice of intent is not complete, the regional board shall issue a written response to the applicant identifying the reason why it is not complete. If the regional board determines that the notice of intent is complete, the regional board shall notify the operator in writing that the notice of intent is complete.

(c) A person who receives a written notice of completeness pursuant to subdivision (b) shall, before operating the installed solar evaporator, request the regional board to conduct a compliance inspection of the solar evaporator. Within 30 days after receiving a request, the regional board shall inspect the solar evaporator to determine whether it complies with this article. If the regional board finds that the solar evaporator does not comply with this article, the regional board, within 140 days after the inspection, shall issue a written response to the applicant identifying the

reasons for noncompliance. Except as provided in subdivision (e), if the regional board finds that the solar evaporator complies with the requirements of this article, the regional board, within 30 days after the inspection, shall issue a written notice of authority to operate to the operator of the solar evaporator. The regional board may include in the authority to operate any associated condition that the regional board deems necessary to ensure compliance with the purposes and requirements of this article.

(d) A person shall not commence the operation of a solar evaporator before one of the following occurs:

(1) The person receives a written notice of authority to operate the solar evaporator pursuant to this section.

(2) The expiration of 140 days after the solar evaporator is inspected pursuant to subdivision (c), and the person has not received a written response from the regional board, identifying reasons for noncompliance.

(e) The regional board shall review an authority to operate issued by the regional board pursuant to this section every five years. The regional board shall renew the authority to operate, unless the regional board finds that the operator of the solar evaporator has not demonstrated compliance with the requirements of this article.

25209.14. (a) A person operating a solar evaporator shall submit to the regional board, in April and October of every year, all of the following information:

(1) Bimonthly waterflow data taken immediately prior to discharge to the solar evaporator.

(2) Bimonthly water quality data, as required by the regional board, taken immediately prior to discharge to the solar evaporator.

(3) Semiannual groundwater monitoring data taken from an area in the vicinity of the solar evaporator, as approved by the regional board. Groundwater shall be monitored for salts, selenium, and other elements, as determined by the board, that could adversely affect avian wildlife or beneficial uses of adjacent groundwater.

(b) Notwithstanding subdivision (a), the regional board may do either of the following regarding data collected pursuant to paragraphs (1) and (2) of subdivision (a):

(1) Reduce the data collection schedule two years after data is submitted pursuant to subdivision (a), if the regional board determines that discharge to the solar evaporator has been adequately characterized.

(2) Increase the data collection schedule, if the regional board determines that changes in monitoring results or other changes in the operation of the solar evaporator require more frequent data collection.

25209.15. (a) The regional board, consistent with its existing statutory authority, shall inspect any solar evaporator that is authorized to operate pursuant to Section **25209.**13 at least once every five years to ensure continued compliance with the requirements of this article. In conducting any inspection, the regional board may request the participation of a qualified state or federal avian

biologist in a technical advisory capacity. The regional board shall include in the inspection report conducted pursuant to this section any evidence of adverse impacts on avian wildlife and shall forward the report to the appropriate state and federal agencies.

(b) If the regional board, as a result of an inspection or review conducted pursuant to this article, determines that a solar evaporator is not in compliance with the requirements of this article, the regional board shall provide written notice to the operator of the solar evaporator of that failure, and shall include in that written notice the reasons for that determination.

(c) Chapter 5 (commencing with Section 13300) of, and Chapter 5.8 (commencing with Section 13399) of, Division 7 of the Water **Code** apply to any failure to comply with the requirements of this article and to any action, or failure to act, by the state board or a regional board. The regional board may, consistent with Section 13223 of the Water **Code**, revoke or modify an authorization to operate issued pursuant to this article.

25209.16. (a) For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government **Code**, including Section 11349.6 of the Government **Code**, the adoption or amendment of the regulations required to be adopted pursuant to this article is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and **safety**, and general welfare.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government **Code**, any emergency regulations adopted or amended by the state board pursuant to this article shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until repealed by the state board.

25209.17. Any solar evaporator operating under a valid written notice of authority to operate issued by the regional board pursuant to this article, including any facility operating pursuant to Article 9.5 (commencing with Section 25208) prior to January 1, 2003, that the regional board determines is in compliance with the requirements of this article, is not subject to Article 9.5 (commencing with Section 25208) or Sections 13260 or 13263 of the Water **Code.** Upon determining pursuant to this section that a facility is a solar evaporator in compliance with this article, the regional board shall, as appropriate, revise or rescind any waste discharge requirements or other requirements imposed on the operator of the facility pursuant to Article 9.5 (commencing with Section 25208) or Section 13260 or 13263 of the Water **Code.**

25209.18. (a) A person operating a solar evaporator pursuant to a valid notice of authority to operate shall, consistent with subdivision (f) of Section **25209.**12, manage the collection and removal of evaporite salt from the solar evaporator as described in the plan prepared pursuant to paragraph (5) of subdivision (a) of

Section **25209.**13.

(b) If the regional board subsequently determines that accumulated salt needs to be collected and removed from a solar evaporator at a time, or in a manner, that differs from the plan prepared pursuant to paragraph (5) of subdivision (a) of Section **25209.**13, the regional board shall notify the operator in writing and describe the reasons for its determination.

(c) An operator of a solar evaporator who receives a notice pursuant to subdivision (b) may appeal the determination of the regional board. The appeal shall include a response, prepared by an independent registered professional civil engineer or agricultural engineer, to the findings in the notice.

25209.19. Within 30 days of an action or failure to act by a regional board pursuant to this article, an aggrieved person may petition the state board to review that action or failure to act. The petition and all other rules and procedures governing the petition shall be the same as in Section 13320 of the Water **Code.**